THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.18059 OF 2005

Dated: 15th December, 2005.

Between:

Bogineni Rosaiah … Petitioner

And

1. Assistant Commissioner of Endowments,
   Vijayawada, Krishna District, and
   two others. … Respondents.

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.18059 OF 2005

ORDER :

This writ petition is filed seeking a declaration that the action of the 2nd respondent – Executive Officer, Sri Veeranjaneya Swamywari Temple, Suryapalem, Gollapudi Post, Krishna District in conducting re-auction of the lands in RS.No.38 admeasuring Ac.4-70 cents situated at Suryapalem village, Vijayawada Rural Mandal, Krishna District on 25-7-2005 as arbitrary and illegal.

The petitioner was the successful bidder in the public auction held on 20-6-2005 in respect of the leasehold rights of the land to an extent of Ac.4-70 cents situated at Suryapalem Village, Vijayawada Rural Mandal, Krishna District which belongs to the second respondent temple. The petitioner states that he paid Rs.10,000/- towards advance and the 2nd respondent undertook to hand over the physical possession of the land in question after obtaining the sanction and approval from the higher authorities. However, the physical possession of the land in question has not been handed over to him in spite of the fact that the first respondent – Assistant Commissioner of Endowments had approved the lease granted in his favour by proceedings dated 27-6-2005. While so, surprisingly, the 2nd respondent, without any prior intimation to the petitioner, conducted re-auction in respect of the very same land. Aggrieved by the said action, this writ petition is filed contending inter alia, that the second respondent was not justified in conducting re-auction without cancelling the lease already granted in favour of the petitioner.

The 2nd respondent filed a counter-affidavit in which the fact that the petitioner was declared as successful bidder in the auction held on 20-6-2005 has not been disputed. However, it is stated that though he paid a sum of Rs.10,000/- towards deposit, he failed to pay advance lease amount as required under the conditions of auction. Hence, the petitioner was served with notices dated 27-6-2005 and 4-7-2005 calling upon to pay the advance lease amount as per the terms and conditions of the auction and to take the possession of the land. Since the petitioner failed to turn up, the second respondent issued another notice dated 10-7-2005, but there was no response from the petitioner. In the circumstances, the second respondent addressed a letter dated 14-7-2005 to the first respondent – Assistant Commissioner of Endowments, Vijayawada, in response to which, the 1st respondent by letter dated 15-7-2005 directed to forfeit deposit of Rs.10,000/- and to conduct fresh

auction. The same was informed to the petitioner by letter dated 16-7-2005 and accordingly a fresh auction was conducted on 25-7-2005. In the said auction, the third respondent - Komati Praveen Kumar became the highest bidder and he complied with the conditions of auction and accordingly possession of the land was handed over to him on 1-8-2005. Hence, the writ petition is misconceived and liable to be dismissed.

I have heard the learned Counsel for both the parties and perused the material on record.

Rule 7 of The Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Lease of Agricultural Lands Rules, 2003 (for short, 'the Rules') made under G.O.Ms.No.379, Revenue (Endowments-I) Department, dated 11-03-2003 provides that leases shall be by public auction. Rule 9 of the Rules prescribes terms and conditions of the lease, according to which the conditions of licence shall specify the security to be furnished by the lessee, the mode of payment of the rent and the surcharge or compensation, if any, to be imposed for default in payment of rent or for violation of any conditions of lease. Under Rule 14 of the Rules, the leases shall ordinarily be given to the highest bidder and the acceptance of the bid shall be subject to approval of the competent authority. Moreover, under Rule 16 of the Rules, all leases shall be reported to the competent authority, who may either confirm, or for reasons to be recorded in writing disapprove the lease. Rule 17 of the Rules provides that in case of all leases, the tenant should furnish security to the satisfaction of the Executive Authority and such security shall be a sum equal to at least one year's rental or unencumbered immovable property equal in value to three year's rental. Rule 18 of the Rules makes it clear that all lease deeds shall be in writing and shall be duly stamped and registered wherever so required by law at the expense of the lessee and that no person shall be placed in possession of the leased land or allowed to exercise his rights under the lease until he has executed the lease deed and complied with the requirements of the Rules.

In the case on hand, the Record produced before this Court shows that as per the conditions of auction every bidder before participating in the auction shall deposit Rs.10,000/- as security. That apart, the successful bidder shall furnish one year's

rental as security or furnish title deeds of his unencumbered immovable property equal in value to two year's rental. Further, condition No.25 makes it clear that the successful bidder has to pay the rentals of one year in advance. As per Condition No.8, the successful bidder has to get the lease deed registered at his expense within one week from the date of acceptance of his lease. Condition No.11 also in categorical terms states that in case the successful bidder fails to get lease deed registered, the leasehold rights will be put to re-auction after forfeiting the advance amount.

Having regard to the conditions of auction as noted above and in the light of the Rules made under G.O.Ms.No.379, dated 11-03-2003, it is clear that the mere fact that a participant in the auction was declared as the successful bidder does not confer any right on him. In the case on hand, the specific allegation made by the respondents is that the petitioner failed to pay the lease amount as per the conditions of auction. The only plea raised by the petitioner is that he has deposited a sum of Rs.10,000/- and that he also deposited title deeds of his property to the value of about Rs.9.00 lakhs. It is true that the security as required under Rule 17 of the Rules can be furnished by depositing one year's rental or by depositing title deeds of unencumbered immovable property equal in value to three year's rental. Even assuming that the petitioner has satisfied the said condition with regard to the security, nothing has been placed before this Court to show that he has paid one year's rental in advance as required under Condition No.25 of the Auction conditions. When the said fact was brought to the notice of the 1st respondent, he directed forfeiture of advance amount and also to put the leasehold rights to re-auction. Accordingly, the second respondent re-auctioned the leasehold rights in which the 3rd respondent was declared as the successful bidder.

The scheme of the Rules referred to above make it clear that the lease in favour of the successful bidder can be said to have been concluded only on execution of the lease deed. Admittedly the lease deed as required under Rule 18 of the Rules, has not been executed in favour of the petitioner. He is also not put in possession. In the circumstances, the petitioner has not acquired any right in respect of the leasehold rights of the land in question and therefore the contention of the petitioner that the

2nd respondent ought not to have conducted re-auction without cancelling the lease in his favour and without issuing any prior notice to him is without any substance. The action of the respondents cannot be said to be in violation of any statutory provision nor it can be termed as arbitrary warranting interference by this Court. At any rate, as expressed above, the petitioner has not acquired any legally enforceable right so as to invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India.

Accordingly, the Writ Petition is dismissed. No costs.

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G. ROHINI, J.

Dt. 15 –12-2005.

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